

Department of Permitting and Environmental Review (Permitting)

35030 SE Douglas Street, Suite 210 • Snoqualmie, Washington 98065-9266 • 206-296-6600 • TTY Relay 711

Right-of-Way Use

Permitting Customer
Information Bulletin #**31****• FREQUENTLY ASKED QUESTIONS •**

*Visit the Permitting Web site at
www.kingcounty.gov/permits
for more information*

King County Permitting has created customer information bulletins to inform the general public about the effect of codes and regulations on their projects. These bulletins are not intended to be complete statements of all laws and rules and should not be used as substitutes for them. If conflicts and questions arise, current codes and regulations are final authority. Because the codes and regulations may be revised or amended at any time, consult King County staff to be sure you understand all requirements before beginning work. It is the applicant's responsibility to ensure that the project meets all requirements of applicable codes and regulations.

For alternate formats, call 206-296-6600.

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What is a right-of-way use permit (ROWUP)?

King County has three different permits that are required for certain types of construction or installations within a King County-owned right-of-way.

- (1) A Right-Of-Way Use Permit issued by the King County Department of Permitting and Environmental Review (Permitting) is required when a developer or individual wants to improve access and/or drainage in the right-of-way. Some water supply and sanitary installations that are privately owned by a property owner are also required to obtain a right-of-way use permit from Permitting.

Other permits may be required to approve various types of installations and other uses on King County-owned property or rights-of-way by property owners, individuals and utility companies that are not directly related to road or drainage improvements.

- (2) A Special Use Permit (SUP), issued by King County Real Estate Services (RES) and used by RES for access across King County Parks' trails, etc., may be required for any use or improvement, not related to road or drainage improvements, located on County-owned property (including tracts and right-of-way).

- (3) A Right-of-Way Construction Permit, also issued by King County Real Estate Services, is required whenever a utility company proposes an installation or re-location in the right-of-way.

For more information on special use and right-of-way construction permits, please contact the Real Estate Services Section at 206-296-7456. Their offices are located on the 5th floor of the King County Administration Building, 500 Fourth Ave, Seattle, WA.

When must customers apply for a right-of-way use permit?

Chapter 14.28 of the King County Code (KCC) states that a right-of-way use permit is required if King County-owned right-of-way is privately improved or used by an individual. This section of the code should not be applied to utility construction work regulated under KCC 14.44 or other special uses of right-of-way that may be regulated under KCC 14.30, for which King County RES is the contact. However, if a developer, property owner, or individual wants to improve road and/or drainage infrastructure, they should first obtain a right-of-way use permit from Permitting.

Some common projects or uses in King County-owned rights-of-way that require a right-of-way use permit from Permitting include the following:

- Improvements to roads or drainage facilities required as part of a subdivision or for a residential or commercial building permit application.
- Road and/or drainage improvements or restoration work independent of any other permit activity.
- Use of unopened or non-King County maintained rights-of-way for driveway/road access involving grading. For placing temporary structures as encroachments (small walls, sheds, etc.), or for landscaping or major maintenance like tree removal, contact King County RES.
- Installation of a drainage pipe in a roadside ditch or culvert crossing/ replacement within a King County right-of-way.
- Widening the shoulder of an existing road or adding a walkway or sidewalk.
- Altering or constructing an intersection connection with any public or private road.
- Installing a rockery or retaining wall to support a fill or cut in the right-of-way and road prism. [Permitting to review engineering and RES to permit encroachments if approved by King County (KC) Roads.]
- Installing private water or sanitary utility crossings, when allowed.

A right-of-way use permit may be issued independently or in conjunction (consolidated) with another permit application with Permitting.

When is a right-of-way use permit not necessary?

There are many development activities for which applicants will not need a right-of-way use permit. Although these are too numerous to list, common activities that do not require a right-of-way use permit include the following:

1. Work or activities in King County-owned rights-of-way
 - A single residential driveway from private property that connects directly to King County-maintained road is exempt and does not require right-of-way use permit. However, the driveway connection must be built according to King County road standards. Information on driveway connections may be viewed and printed from the DDES Web site or copies may be obtained from the Permitting Services Center.
 - Normal maintenance work, such as lawn mowing. Shrubbery work or tree trimming may require a ROW use permit coordinated with KC Roads through KC RES if there is no eminent danger of property damage.
 - Emergency work such as temporary patching or road surfacing repair. Permanent repair to fix the problem does, however, require a right-of-way use permit.
 - Minor activities such as survey work, installing mailboxes, or minor repair of existing sidewalks.

2. Utility construction work regulated under KCC 14.44
 - A Right-of-Way Construction (Franchise) Permit is required for all utility work, including utility connections from private properties that are completed or maintained by a franchised utility or company.
 - Borings and exploration work related to proposed utility installations.

This permit may be obtained from the King County Real Estate Services Section at 206-296-7456, and refer to Chapter 14.44 of the King County Code for more information.

3. Other special uses of right-of-way regulated under KCC 14.30
 - Temporary street closures during events such as fun runs, races, and block parties, or to hang banners, flags, or signs across Right-of-Way areas.
 - Encroachments onto or in County owned property, tract or ROW such as small walls by a property owner, sheds, temporary signs, plat monuments, yard fences, and newspaper shacks.
 - Removal or trimming trees and vegetation in unopened County right-of-way (not used for access).
 - Obtain legal access across Parks' property, build trails, etc.
 - Add improvements or amenities such as a basketball court to drainage retention tracks or public easements.

For these and other uses not related to utilities, access or drainage, a ROW Permit or Special Use Permit is required. Contact the Real Estate Services Section of the King County Facilities Management Division at 206-296-7456 for information pertaining to this type of permit.

4. Work in privately owned roads right-of-way or easement
 - Road construction on private tracts, easements or privately owned lands may require a Clearing or Grading Permit. Refer to Permitting Bulletin 28, *Clearing and Grading Permits*, for additional information. Note: A right-of-way use permit is required for the area where a private road intersects a public right-of-way (e.g., road landings and approaches).
5. Work on County-owned tracts or easements other than road rights-of-way
 - For any work in King County-owned property, tract or easement (other than road rights-of-way), a special use permit is required. Contact the King County Real Estate Services Section - Facilities Management Division at 206-296-7456 for more information.

Limited and extended right-of-way use permits

There are two types of right-of-way use permits: LIMITED and EXTENDED.

A LIMITED Right-of-Way Use Permit applies when an applicant is proposing to improve or construct road and/or drainage infrastructure that King County will be maintaining after construction is completed. Construction typically is conducted for a limited period of time (less than one year). With a limited right-of-way use permit, the applicant is responsible for maintaining the improvement for the duration of the installation or use. Examples of this include installing a temporary access road, widening and paving a shoulder, or installing a catch basin under a King County-maintained roadway.

The applicant may apply for a one-year extension of a limited right-of-way use permit after the first six months of permit issuance.

An EXTENDED Right-of-Way Use Permit applies when the applicant is proposing to improve or construct road and/or drainage infrastructure that is located in King County-owned right-of-way but the improvements will be maintained by the property owners that use the right-of-way, not King County. In other works improvements will be the responsibility of the applicant and/or property owners for an extended period of time (more than one year). Such installation or use requires the applicant to have maintenance responsibility for the extended period of time (more than one year), until such time as King County accepts responsibility for the improvements. Examples of this include installing, using, or improving a privately maintained gravel road or installing a private sewer line in a King County right-of-way. If there are any structures or facility on/in the ROW, RES may want to have a copy for record purposes (annexations, etc.).

An Extended Right-of-Way Use Permit may also allow the applicant use of the access corridor after construction. In the case of a landscape irrigation system, for example, the applicant remains responsible for safe maintenance and operation throughout the duration the system is used. Any construction work or restoration that an extended permit requires must be completed within one year of issuance of the permit. In addition, the applicant may be required to record a maintenance covenant that runs with the land for the benefit of public. Such a covenant, available on the Permitting Web site, includes the following information:

1. The number of the right-of-way use permit.
2. The location of the right-of-way or a legal description of the parcel.
3. Notification to the owner(s) association or buyer that King County is not responsible for maintenance or operation of the facilities described in the permit, and that it is an equal responsibility as permit applicant(s).
4. A statement identifying the owners association, buyers, or permit applicant(s) as being liable for any damage or injury resulting from failure to adequately maintain facilities used or operated under the permit.
5. A statement pertaining to public use, safety hazards, repairs, and/or alterations. The applicant's responsibility will end when King County officially accepts responsibility for maintenance of the improvements.

Note: Chapter 14.28.020(B) of the King County Code allows a right-of-way use permit to be consolidated into other permit reviews and approvals, such as issuance of a commercial building permit or engineering plan approval for a grading permit or subdivision. In these cases, a separate right-of-way use permit application will not be required.

Right-of-way use permit applicants must assume costs for the construction of the approved improvements and for the restoration of the disturbed King County right-of-way to conform to King County standards. This requirement includes posting a financial guarantee to cover the costs of the approved project construction and the disturbed right-of-way restoration.

How do customers apply for a right-of-way use permit?

An application for a right-of-way use permit and other forms below may be obtained from the Permitting Service Center at the King County Permitting Office, from the Permitting Web site at www.kingcounty.gov/permits, or by calling Permitting Service Center at 206-296-6600. All proposed improvements or uses must conform to King County standards that are in effect when customers submit a complete application.

Upon completion of the application form worksheet, please submit the following materials to the Permitting Service Center at 35030 SE Douglas Street, Suite 210 in Snoqualmie, WA 98065-9266.

1. The completed application form

Fill in all blank spaces and answer all questions in Sections I through V of the application form. Include a location sketch on the back of form only if other plans or sketches are not available. Submit a good quality photograph showing the location(s) of the proposed work in the road right-of-way in all directions, roadway, roadside ditches, shoulders, road pavement or gravel surface, and other existing adjacent utility structures. Identify property corner locations on the photographs wherever possible.

2. A copy of any applicable Assessor's maps

On the Assessor's map, outline in red the right-of-way to be opened or improved. Also outline the property that will be served by the proposal. A copy of an Assessor's map may be obtained from the Assessor's Office Web site at www.kingcounty.gov/assessor (see eMap) or by contacting their Public Information Counter, which is located on the seventh floor of the King County Administration Building. Call 206-296-7300 for information on obtaining maps, in person or by mail, and their cost. Customers may also order Assessor's maps via fax at 206-296-5107.

3. A SEPA Environmental Checklist

If required, applicants must complete a SEPA checklist describing any adverse impacts to the environment that will be caused by the proposal. This form is required under the Washington State Environmental Policy Act (SEPA), unless a checklist has already been submitted for another development permit that describes these improvements, or the proposed work is categorically exempt. Categorical exemptions are specified under Chapter 197-11-800 of the Washington Administrative Code (WAC). Customers may also refer to Bulletin 26, *SEPA Process*, for additional information.

4. Payment of the initial review fee

A non-refundable initial review fee is required with an application. Additional fees such as an inspection fee or engineering plan review fee may also be required, depending on the complexity of the proposed work. The initial fee must be paid upon submitting an application; the applicant will be notified of other required fees which will be due as prescribed in the notice. In addition, all required financial guarantee(s) must be posted before permit issuance.

5. Certificate of Applicant Status/Transfer of Applicant Status

These forms are available from DDES.

6. Site (parcel) legal description

A title company can provide this legal description.

7. Critical areas affidavit

The Affidavit Concerning Critical Areas Compliance form is available from Permitting.

Are there any other requirements?

There may be other requirements associated with a right-of-way use permit application, such as engineering plans, surveying, dedication, improvement construction, and financial guarantee(s). Information regarding these other requirements is provided on the following pages.

Following submittal and preliminary review of an initial application, a SEPA threshold determination will be advertised when required and customers will be notified of the conditions and requirements that are necessary before a right-of-way use permit may be issued. In some cases, conditions may include requirements to ensure that the permit complies with the King County Comprehensive Plan, the Surface Water Design Manual, the Critical Areas Ordinance, community plans, and other King County policies and State regulations.

The initial application begins the process of obtaining a right-of-way use permit. A Conditions Notification will be issued that will outline the requirements applicants must satisfy in order to obtain a valid right-of-way use permit. The second step may require submittal of engineering plans and any associated plan review fee. Engineering plans may also be submitted with the initial application. Following plan review and approval, payment of inspection fees, and posting of financial guarantee(s) and submittal of the recorded maintenance covenant, the right-of-way use permit will be issued.

1. Engineering Plans

Depending on the complexity of proposed improvements, detailed engineering plans, restoration plans, drainage plans, and/or a Technical Information Report (TIR), may be required. If plans are required, they must be prepared by a licensed Civil Engineer, consistent with the requirements of the *Surface Water Design Manual and King County Road Design and Construction Standards*. If special studies are required, such as wetland, stream, or geotechnical investigations, these must also be performed by a qualified specialist, and the results must be incorporated into the engineering plans. The applicant is financially responsible for any studies, as well as the cost of the design and submittal of the engineering plans. The plans must be submitted to the King County Department of Permitting and must be reviewed and approved by Permitting staff before a permit may be issued.

2. Surveying

Applicants may be required to have right-of-way surveyed by a licensed land surveyor if the Development Engineer considers it necessary. [See Chapter 14.28 of the KCC.]

3. Dedication

Property owners may be required to deed an additional right-of-way or easement across a property in order to fulfill minimum road right-of-way width requirements. [See Chapter 14.28 of the KCC.]

4. Improvement Construction and Financial Guarantee (FG)

Before a permit may be issued, applicants will be required to submit a Right-of-Way Use and Site Restoration Agreement Form, including an acceptable financial guarantee, and pay a construction inspection fee. The amount of the financial guarantee is determined using the Bond Quantities Worksheet and shall be a cash deposit with King County in an amount up to \$7,500. The minimum financial guarantee shall be \$1,000, and any amount exceeding \$7,500 may be in the form of a surety bond or assignment of funds. A financial guarantee is required to ensure the following:

- Construction meets King County standards, approved plans, and permit conditions
- The right-of-way is restored to its original condition or better if any work or alteration work is not completed according to the terms of the permit and the financial guarantee
- Construction activities will not interfere with traffic safety or create liability problems
- Any facilities that will be maintained by King County are properly accepted
- All work will be completed within one year.

Construction inspection fees cover the costs of inspection for one year. Fees vary depending on the amount of the financial guarantee that is posted and the current adopted fee schedule in use. If the project is not completed within one year, annual inspection fees will be charged. Applicants must contact the Land Use Inspection Section at least 72 hours before starting construction work to set up a pre-construction meeting. To schedule a pre-construction meeting, please call 206-296-6642. At the pre-construction meeting, customers will be informed of construction and inspection requirements for the completion of a proposed project and release of guarantees. More information on construction inspection requirements may be found on the Permitting Web site at www.kingcounty.gov/permits.

5. Expired, Withdrawn, or Canceled Right-of-Way Use Permits

Limited right-of-way use permits will expire one year from the date of issuance. Applicants may request a one-year extension, provided that all work is in compliance with the permit, and satisfactory progress has been made toward completion. At any time during the permitting process, applicants may decide to discontinue the permit request. Customers have the option of requesting that an application be withdrawn in writing. If the permit has been issued and construction work has begun, however, customers will need construction inspection approval to ensure that the right-of-way is restored and in satisfactory condition acceptable to King County before release of the financial guarantee(s).

Once a permit expires or is withdrawn or canceled, a new permit application is required to obtain a new right-of-way use permit.

Call before you dig. To avoid the expense and inconvenience caused by damaged utility lines, call 1-800-425-5555 to locate underground utilities.

For additional information, please Permitting Services Center at 206-296-6600.

Be sure to visit our Web site at:
www.kingcounty.gov/permits



King County complies with the Americans with Disabilities Act (ADA). If you require an accommodation to attend a meeting (two weeks' notice) or require this information in Braille, audiocassette, or large print, please call 206-296-6600 or TTY 206-296-7217.